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**Attorneys for Plaintiff
JENNIFER SALDANA**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JENNIFER SALDANA,

Plaintiff,

vs.

COUNTY OF MARIN, a Governmental
Entity; ALICIA KRUPINSKY, an
individual; DAVID COLE, an individual;
MARIANO ZAMUDIO, an individual;
ANTHONY RAITANO, an individual; and
DOES 1 - 10, INCLUSIVE,

Defendants.

Case Number:

COMPLAINT

JURY TRIAL DEMANDED

BACKGROUND

1. This case involves claims of sexual harassment, retaliation for reporting sexual harassment, and Defendant County of Marin's ("Defendant" or "the County") years-long failure to prevent harassment, discrimination, and retaliation within the Probation Department. Plaintiff Deputy Probation Officer Jennifer Saldana's ("Plaintiff" or "Officer Saldana") claims arise from the County's mishandling of the complaint of the sexual assault of Officer Saldana in 2015 by then-Probation Officer David Cole, which was investigated and substantiated by the County. Since that time, Officer Saldana has

1 been subjected to repeated acts of discrimination, retaliation and unwarranted scrutiny;
2 denied several promotions; been falsely accused of misconduct; and has received
3 negative performance evaluations. By contrast, and despite the County's stated zero-
4 tolerance policy for unlawful harassment and retaliation, Cole received a mere one-day
5 suspension for his sexual assault on Officer Saldana, and has actually been promoted
6 twice since sexually assaulting her in 2015; most recently to supervisor.

7 2. Unfortunately, and despite its own investigations of Officer Saldana's
8 complaints, the County has failed to take appropriate corrective action. This has resulted
9 in the perpetuation of a hostile work environment that has been ongoing for Officer
10 Saldana and her female colleagues, many of whom have also made formal and informal
11 complaints about Cole and others in his chain of command; and several of whom have
12 made sworn declarations attesting to the hostile work environment they experienced at
13 the County. The evidence clearly shows there is a systemic pattern of protecting male
14 officers who commit acts of sexual assault and harassment against their female
15 colleagues.

16 **ADMINISTRATIVE PROCEDURES**

17 3. Plaintiff has exhausted all applicable administrative remedies with the
18 United States Equal Employment Opportunity Commission ("EEOC") and the California
19 Civil Rights Department ("CCRD;" formerly called the California Department of Fair
20 Employment and Housing, "DFEH"), and has received "Right to Sue" letters from the
21 EEOC and DFEH/CCRD.

22 4. Plaintiff has brought all claims alleged herein within their applicable
23 statutes of limitations, and any conduct alleged to be outside the applicable statute of
24 limitations is part of a continuous pattern of conduct that falls within the gambit of the
25 continuing violation doctrine. Moreover, Plaintiff's claims ("Plaintiff's Federal Law
26 Claims") are subject to the jurisdiction of the EEOC and are timely brought by Plaintiff
27 pursuant to a tolling agreement between the Parties and their duly-authorized
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1 representatives extending the statute of limitations for Plaintiff's Federal Law Claims to
2 April 1, 2023.

3 4 **JURISDICTION AND VENUE**

5 5. Plaintiff's claims are authorized by 28 U.S.C. §1343; 28 U.S.C. §1331; 42
6 USC section 2000e *et seq.*; 42 USC 1981; and California Government Code section
7 12900 *et seq.* Plaintiff also invokes the Court's pendent jurisdiction to adjudicate her
8 state law claims.

9 6. This Court has subject matter jurisdiction over Plaintiff's claims pursuant
10 to 28 USC §§1331 and 1343.

11 7. All of Defendants' actions complained of herein have taken place within
12 the jurisdiction of the United States District Court for the Northern District of
13 California. Venue is appropriate in this district pursuant to 28 U.S.C. §1391.

14 8. This Court also has jurisdiction over all of Plaintiffs causes of action,
15 including but not limited to under the late discovery doctrine, since Plaintiff did not
16 discover the facts giving rise to her claims of retaliation against individual Defendant
17 Mariano Zamudio, and failure to prevent harassment, discrimination, and retaliation
18 against the County, until July 2021. Plaintiff thereafter amended her administrative
19 charge of discrimination/retaliation with the DFEH/CCRD; and there was no way for
20 Plaintiff reasonably to discover this prior to that date. (See, e.g., *Mangum v. Action*
21 *Collection Serv., Inc.*, 575 F.3d 935, 940 (9th Cir. 2009) [quoting *Norman-Bloodsaw v.*
22 *Lawrence Berkeley Lab.*, (9th Cir. 1998) 135 F.3d 1260, 1266]); see also, e.g., *Fox v.*
23 *Ethicon Endo-Surgery, Inc.*, (Cal. 2005) 110 P.3d 914, 921.)

24 25 **PARTIES**

26 9. At all times relevant herein, Plaintiff Jennifer Saldana was an adult
27 employee of Defendant County of Marin, and resident of Sonoma County, California.
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1 10. At all times relevant herein, Defendant County of Marin was a government
2 entity operating in the City of San Rafael, County of Marin, State of California, which is
3 in the jurisdiction of the United States District Court for the District of Northern
4 California.

5 11. At all times relevant herein, Individual Defendant Mariano Zamudio
6 (“Zamudio”) was an adult employee of Defendant County and held a position of
7 authority over Plaintiff.

8 12. At all times relevant herein, Individual Defendant Anthony Raitano
9 (“Raitano”) was an adult employee of Defendant County and held a position of authority
10 over Plaintiff.

11 13. At all times relevant herein, Individual Defendant Alisha Krupinsky
12 (“Krupinsky”) was an adult employee of Defendant County and held a position of
13 authority over Plaintiff.

14 14. At all times relevant herein, Individual Defendant David Cole (“Cole”) was
15 an adult employee of Defendant County and held a position of authority over Plaintiff.

16 15. Plaintiff is ignorant of the true names and capacities of Defendants sued
17 herein as Does 1-10, inclusive, and therefore sues these Defendants by such fictitious
18 names. Plaintiff will amend this complaint to allege their true names and capacities once
19 ascertained.

20 16. Defendant County is an employer under the California Fair Employment
21 and Housing Act (“FEHA”) and Title VII of the Civil Rights Act of 1964; and is subject to
22 suit under those laws.

23
24 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS:**

25 17. The underlying act of sexual assault occurred on November 21, 2015 when
26 Individual Defendant then-Probation Officer David Cole slapped Officer Saldana on her
27 buttocks at a trade show. Cole’s conduct was a sexual assault under applicable California
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1 law; as well as a sexual battery under California Civil Code section 1708.5; and gender-
2 based violence under California Civil Code sections 51.7 and 52. It is also sexual
3 harassment under both California Government Code section 12940, and the County's
4 own Personnel Management Regulations, PMR 21.3, which defines harassment.

5 18. Officer Saldana had multiple conversations with Individual Defendant
6 Deputy Chief of Probation Mariano Zamudio, and with Individual Defendant Director of
7 Adult Probation Services Alisha Krupinsky; each advised her to report the
8 assault. Zamudio told Officer Saldana it was important for her to report Cole's assault
9 because it takes courage and leadership, things that are looked at during the
10 promotional process.

11 19. After a holiday party for the Probation Department in January 2016,
12 Zamudio also told Officer Saldana that "Dave [Cole] didn't learn," after seeing Cole
13 following the female photographer around and trying to slap her buttocks.

14 20. Krupinsky also stressed the importance of reporting Cole's sexual assault,
15 relating that Cole had used a racial slur while talking to a Black deputy. Cole had
16 announced he was going to Oakland. When he returned from Oakland, this Black deputy
17 asked if Cole had brought him a burger was and Cole loudly told him in his colleagues'
18 presence, "Boy, I told you I ain't gettin' you no hamburger." In the context of stressing
19 that Officer Saldana needed to report Cole for sexual assault, Krupinsky said the prior
20 Director of Probation, Teresa Tillman, had not handled that incident correctly.
21 Krupinsky also told Officer Saldana of an incident on the gun range when Cole told a
22 Hispanic female deputy officer named Caranza, who was having a difficult time
23 qualifying, "Come on, Caranza! You're not a Mexican't, you're a Mexican."

24 21. Despite their knowledge of Cole's assault and apparent support for
25 Saldana -- and apparent support of the County's internal policies -- neither Zamudio nor
26 Krupinsky reported Cole's sexual assault to the County's EEO Director, Roger Crawford,
27 or its then-Human Resources (HR) Director, Angela Nicholson or her successor as of
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1 January 2016, Mary Hao, as required by PMR 21.4. This left Officer Saldana with the
2 choice of filing the PMR complaint herself and facing retaliation; or doing nothing and
3 allowing Cole's assault and unlawful behavior to go unreported and unchecked.
4 Ultimately, and from a source unbeknown to Officer Saldana, a complaint was filed
5 charging Cole with having violated the County's Equal Employment Opportunity policy
6 prohibiting sexual harassment, Personnel Management Regulation 21. The ensuing
7 investigation substantiated Saldana's allegations against Cole, which the County
8 characterized as an "improper touching." (Attachment 1.)

9 22. Notably, Krupinsky knew Cole had previously made unwanted sexual
10 advances on at least one other woman in the Probation Department. In or around 2014,
11 there was an office event, and a number of people including Officer Saldana later went
12 to the home of a clerical worker in the Probation Department named Nancy Hillman.
13 While looking down the hall, Officer Saldana saw a door open to a bedroom and could
14 see Cole on top of Ms. Hillman. She saw that both Cole and Ms. Hillman were lying on
15 the bed with their legs moving around. She could hear Ms. Hillman saying words to the
16 effect of, "Stop it, get off me! Get off me!" Officer Saldana went in and urged Cole to get
17 off Ms. Hillman, who appeared to be intoxicated. Krupinsky also saw what was
18 happening in the bedroom but did nothing to stop it, let alone admonish Cole, her
19 subordinate.

20 23. In January 2016 and while the sexual harassment charge was still under
21 investigation, Officer Saldana was required to attend range training with Cole, who
22 proceeded to slap the buttocks of a male Officer named Frank Peterson in a similar
23 manner as his sexual assault on Officer Saldana, in a manner he intended her to witness,
24 and laughed while making eye contact with Officer Saldana. Cole's conduct was a clear
25 attempt to intimidate Officer Saldana. She reported this incident to her supervisor, Jeff
26 Virzi, who notified Deputy Chief of Probation, Mariano Zamudio. When Officer Saldana
27 and Zamudio met to discuss the matter, Zamudio offered Officer Saldana no support
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1 and, in fact, leaned in close to her and, smirking, aggressively asked, “Was he mocking
2 you, was he laughing at you? Do you think Frank [Peterson] was laughing at you?”
3 Officer Saldana responded she simply wanted not to be in training with Cole anymore.
4 Zamudio replied with an exasperated voice, “Okay, okay, Jennifer,” and walked out with
5 a look of disgust on his face.

6 24. In or around late July 2016, Officer Saldana received her first performance
7 evaluation since the filing of the PMR claim against Cole. The evaluation, completed by
8 her then-supervisor, Jeff Virzi, accused her of “abandoning” her post on an assignment
9 that involved Cole, this at a time when the 2016 complaint was still under investigation
10 and Officer Saldana had requested to leave early. She declined to sign the evaluation
11 given its inaccuracies. Officer Saldana had also been advised by EEO Director Roger
12 Crawford to avoid contact with Cole during the pendency of the County’s investigation
13 into the sexual harassment claim against Cole, and that was why she asked Virzi to leave
14 early on the date in question. Virzi did not support her request, exclaiming “You?
15 Leaving? You're leaving right now?” He wanted an explanation, but Cole was about 10
16 feet away, and Officer Saldana was uncomfortable going into specifics in Cole’s
17 presence. Yet even after Officer Saldana later told Virzi why she had left early, he still
18 refused to remove the job abandonment reference from her evaluation.

19 25. Officer Saldana drafted a written rebuttal challenging the false statements
20 in her performance evaluation. However, it was only *after* she involved her Union and
21 escalated the matter to then-Chief of Probation Mike Daly that the “job abandonment”
22 reference was finally removed from her review. After this escalation to Chief Daly, he
23 told the Union that he would work to help to relocate Officer Saldana away from Cole
24 because she was a “good employee and you should feel safe coming to work.” However,
25 none of that resulted in Virzi removing the other inaccuracies in her review which
26 Officer Saldana had pointed out to him, things which Virzi had exaggerated or
27 overblown to Officer Saldana’s detriment.
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1 26. And still, the retaliation continued. On or about May 4, 2017, Officer
2 Saldana was denied promotion from Deputy Probation Officer (DPO) II to Senior DPO,
3 even though she had been the Unit's acting Senior DPO since at least November 2016.
4 Yet the promotion was awarded to none other than Officer Saldana's harasser, David
5 Cole.

6 27. Meanwhile, Krupinsky assigned Officer Saldana an inordinately large
7 caseload between January 2017 and June 2018. Although Ms. Krupinsky said she would
8 reduce Officer Saldana's caseload, when Officer Saldana discussed the issue with
9 Supervisor of Adult Services, Cynthia Fix, Ms. Fix refused to do so.

10 28. Almost three years after Cole's sexual assault, Officer Saldana still
11 continued to experience a hostile work environment. After multiple requests over nearly
12 two years to transfer out of the adult division, Officer Saldana was finally transferred to
13 the juvenile division in June 2018, where she worked under the supervision of Janene
14 Connor, Supervisor of Juvenile Investigations. Director of Juvenile Services, Kevin
15 Lynch, emailed Officer Saldana on May 22, 2018 with a description of a newly-created
16 job, as yet unapproved by the Union. This new job essentially consolidated the workload
17 of two other staff members, Senior Deputy Probation Officer Matt Murphy, and Deputy
18 Probation Officer Jeff White. Officer Saldana's prior caseload was divided among three
19 full-time staff members, Jared McCarthy, Trevor Lillian, and another deputy probation
20 officer whose name she cannot recall.

21 29. On or about June 15, 2018 Officer Saldana received a performance
22 evaluation containing yet more false statements. For example, the evaluation contained
23 the unsupported and uncorroborated statement that Officer Saldana had referred to her
24 CAJI probationers as "feral cats." Officer Saldana wrote a rebuttal contesting this false
25 statement. (Attachment 2.)

26 30. When Officer Saldana and Deputy Chief of Probation Mariano Zamudio
27 met to discuss the points raised in her rebuttal, Zamudio responded by threatening to
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1 open an Internal Affairs (IA) investigation and let IA determine who was “telling the
2 truth.” Saldana’s union attorney, Susanna Farber, attended this meeting and
3 documented Zamudio’s conduct in a writing she prepared in connection with the
4 investigation into Saldana’s claims. (Attachment 3.)

5 31. At Officer Saldana’s insistence, Zamudio agreed to send her written
6 rebuttal to Human Resources (HR) for inclusion in her personnel file. Officer Saldana
7 later discovered in the course of copying her personnel and HR files with her union
8 representative that Zamudio in fact never did this. Moreover, the copy of Saldana’s June
9 2018 performance review she did find in her personnel file did not have a live signature,
10 which is against the County’s protocol.

11 32. Zamudio continued to retaliate against Officer Saldana. In May 2020, he
12 denied her the opportunity to travel to Michigan to transport probationers back to
13 California, which would have entailed a significant amount of overtime hours. Officer
14 Saldana had been the County’s primary juvenile transport officer since 2018, yet
15 Zamudio chose someone else for this assignment.

16 33. On or about June 1, 2020, Janene Conner and Kevin Lynch’s successor as
17 Director of Juvenile Services, Eric Olson, informed Officer Saldana she would be moving
18 back to the Adult Services Unit under the supervision of Dave Cole. Officer Saldana was
19 informed that, although she would be in Cole’s unit, she would be reporting directly to
20 another Supervisor, Heather Damato. The transfer was finally rescinded after Officer
21 Saldana told Ms. Connor and her Director, Eric Olson, she was concerned about being in
22 Cole’s chain of command given his prior harassment of her.

23 34. Then on or about July 22, 2020, Officer Saldana was advised that she
24 would be transferred to Anthony Raitano’s unit. She objected to this transfer because
25 Raitano and Cole are close friends. Saldana explicitly voiced this concern to her
26 then-supervisor, Janene Conner. The transfer went through anyway, and Raitano
27 requested that his first meeting with Officer Saldana be in his office. Raitano had
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1 prominently placed a picture of Dave Cole at the front of his desk, facing towards the
2 chair where Officer Saldana was to sit.

3 35. Officer Saldana had previously confided in Raitano about her experience
4 with Cole, telling him how traumatized she still felt. Raitano's openly displaying Cole's
5 photo on the edge of his desk during their first meeting with Raitano as her supervisor
6 was a clear and deliberate act of harassment and intimidation. Though the County's
7 response to Officer Saldana's EEOC charge essentially claims this photo had always
8 been on Raitano's desk, this is contradicted by Probation Officer Hugo Aracias and
9 Probation Officer Yuliana Valenzuela, who confirm they never saw Cole's photo on
10 Raitano's desk in that timeframe. (See Attachment 4.)

11 36. Beginning in 2016 and due to Cole's history of harassment, Officer Saldana
12 made numerous requests that she not be scheduled for trainings with Cole. After this
13 kept happening anyway, Officer Saldana emailed her union attorney Susana Farber,
14 saying she felt her repeated requests not to be scheduled with Cole were falling on deaf
15 ears, and that she felt powerless. Farber followed up with an email to management.

16 37. On August 3, 2020, Officer Saldana filed a PMR 21 complaint describing
17 the years-long pattern of harassment and retaliation she had been subjected to following
18 the complaint of sexual assault by Cole. This included evidence that Deputy Chief
19 Zamudio failed to properly report and investigate the equal employment complaint she
20 made to him in January 2016; and that Zamudio had threatened to open an IA
21 investigation over her claim that her performance evaluation contained false statements.
22 Officer Saldana also pointed to Raitano's display of Cole's photo as a further act of
23 retaliation.

24 38. Officer Saldana also supported her claim of retaliation with evidence that
25 Krupinsky assigned her an excessive case load; intentionally delayed her request to
26 transfer from the adult to the Juvenile Division; denied her a promotion to senior
27 Deputy Probation Officer (DPO); intentionally placed her in training sessions with Cole
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1 despite her numerous and repeated requests not to attend trainings with him; subjected
2 her to excessive scrutiny; and caused false information to be included in her 2017-2018
3 performance review.

4 39. On or about October 6, 2020 Officer Saldana received her annual
5 performance evaluation, which was four months late. She went from having seven
6 “exceeds expectations” out of nine categories in 2019 to two out of nine “exceeds
7 expectations” in 2020. Notably, the only things that changed were that she had taken
8 FMLA leave for her own serious health condition (stress); and participated in the
9 investigation stemming from the filed PMR 21.

10 40. The performance review also contained several false and misleading
11 statements by Officer Saldana’s supervisor, Janene Conner, including that she was
12 unfocused and unreliable. In Eric Olsen’s presence, Officer Saldana asked Conner for
13 the factual basis for these statements; Conner replied, “I have no concrete facts.” Conner
14 tried to recant on her use of the word “unreliable” in the review, and asked Officer
15 Saldana to do another self-assessment, which she did. After Saldana handed this self-
16 assessment to Conner, she received another performance review on or about October 2,
17 2020 that still said she was unreliable and unfocused. She was required to address this
18 on three separate occasions before this unfounded criticism was removed from her
19 performance review.

20 41. On April 7, 2021, the County’s EEO Director Roger Crawford sent Officer
21 Saldana the Notice of Completion of Investigation into her August 2020 PMR 21
22 complaint. She responded via email on April 9, 2021 saying that based on his findings, it
23 was clear the County did not investigate specific incidents she raised, and did not
24 interview key witnesses she identified. Crawford responded on May 13, 2021 saying the
25 County would open a supplemental investigation into the complaint, having
26 determined that “there were additional facts to be investigated regarding whether
27 allegations of harassment and retaliation that you raised in 2016 were properly reported
28 and investigated.” (See Attachment 5.)

1 42. The County's investigation substantiated Officer Saldana's claims that
2 Deputy Chief Zamudio failed to properly report and investigate her complaints of
3 intimidation, retaliation, sexual harassment, and a hostile work environment; and that
4 Zamudio had threatened to open an IA investigation over her claim that her
5 performance evaluation contained false statements. (See Attachment 6.) This was
6 communicated to Officer Saldana on July 16, 2021.

7 43. Zamudio knew or should have known he had a duty to report and/or
8 investigate Officer Saldana's complaints of harassment and intimidation, especially
9 during an ongoing investigation, having worked his first three years with the County of
10 Marin in its Human Resources department. He even developed the "Mariano
11 University" course based on his "expertise" in human resources, and handed out
12 diplomas. (Attachment 7.)

13 44. Zamudio resigned his employment effective September 9, 2021, less than
14 two months after the County completed its supplemental investigation substantiating
15 Saldana's complaints against him.

16 45. On July 14, 2021 a meeting took place to discuss the County's
17 supplemental investigation into the PMR 21. The meeting was attended by Officer
18 Saldana; her Union lawyer, Susana Farber; her Union steward; EEO Director Roger
19 Crawford; Deputy County Counsel Leilani Battiste; and Chief of Probation Marlon
20 Washington. It came out during this meeting that Crawford had neglected to provide
21 Chief Washington with either the April 2021 Notice of Completion of the investigation
22 into Officer Saldana's PMR 21 complaint, or the related findings. County Counsel
23 appeared visibly shocked by this.

24 46. On Friday, July 22, 2021 Officer Saldana filed a PMR 26 claiming EEO
25 Director Roger Crawford had violated the County's personnel management regulations
26 by failing to timely investigate her complaint, and by failing to timely deliver a copy of
27 the County's supplemental investigative findings/Notice of Completion of Investigation
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1 dated April 7, 2021 to Chief Washington. Officer Saldana's PMR 26 highlighted various
2 deficiencies in the County's investigation of her PMR 21, including its failure to
3 interview key fact witnesses she identified. While it did not dispute the truth of the
4 underlying facts, the County took no action on Officer Saldana's PMR 26, deeming it
5 untimely by a few days. (Attachment 8.)

6 47. Individual Defendant David Cole has engaged in a years-long pattern of
7 retaliation against Plaintiff that began after the complaint against him in connection
8 with his sexual assault of Officer Saldana in 2015 was filed, and continuing up to the
9 past year. This includes but is not limited to his giving Plaintiff intimidating and hostile
10 looks, deliberately impeding her movement by moving in front of her in the hall when
11 walking in opposite directions, causing her to have to move out of his way; taunting and
12 teasing her; and whispering to coworkers while looking at Plaintiff with a sneer, then
13 laughing loudly.

14 48. Officer Cole has harassed numerous other female officers, many of whom
15 have also filed PMR 21 complaints alleging sexual harassment by Cole. This includes
16 Caroline O'Neill, who has first-hand knowledge of Cole's unprofessionalism,
17 misconduct, and general disregard for the rules.

18 49. In June of 2020, Caroline O'Neill was transferred from the juvenile intake
19 unit to the adult medium risk unit, which was supervised by Cole. At the end of a one-
20 on-one onboarding meeting with Cole, he stated they had covered enough material for
21 the day. He proceeded to project his personal vacation pictures that he had taken at a
22 car race in France to pass the time until the end of the workday. Cole narrated each
23 slide, pointing out locations and providing context. One of the projected photographs
24 depicted the backsides of two females who were walking in front of the camera. Cole
25 made a comment to the effect of "and those are girls with good asses" before
26 transitioning to the next slide and continuing his narration without pausing. The
27 comment was inappropriate but, despite being uncomfortable, Officer O'Neill did not
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1 say anything as she was new to the department. These allegations are confirmed by the
2 sworn declaration of Officer O'Neill (Attachment 9.)

3 50. In November 2020, Cole spontaneously spun Officer O'Neill around and
4 placed her in a choke hold in a hallway at work. This was intended to intimidate Officer
5 O'Neill. Officer O'Neill did not consent to this, and Cole did not ask for permission.
6 Further, Cole is not certified as a weaponless defense instructor. Cole went on to tell
7 Officer O'Neill he wanted to pepper spray her and could do so at any time.

8 51. Officer O'Neill filed a PMR 21 with the County alleging sexual harassment
9 and other misconduct by Cole. The County's investigation concluded Cole had
10 inappropriately touched O'Neill and told her he wanted to pepper spray her.
11 (Attachment 10.)

12 52. Cole also failed to disclose a conflict of interest to Officer O'Neill between
13 himself and a probationer in his chain of command, as he was required to do. Cole and
14 this probationer's daughters had been on a sports team together. After interrupting
15 Officer O'Neill's intake, Cole validated the probationers derogatory comments towards
16 his victim and said the Court's recommendations were exorbitant.

17 53. Officer Susana Cenicerros worked under Individual Defendant Zamudio
18 and resigned her employment in September 2020 after spending years in what she felt
19 was a toxic, hostile work environment. She was promoted only once early in her career,
20 while male officers hired after her and whom she trained were promoted ahead of her.
21 She has first-hand knowledge of Zamudio's offensive and unwanted conduct towards
22 other females in the Probation Department, including Elida Andrada-Contreras and
23 Fidelia Contreras, who actually changed how she dressed in the office because
24 Zamudio's leering gave her "the creeps." Officer Cenicerros also has firsthand knowledge
25 that Zamudio tended to hire female officers who were petite and physically attractive,
26 and that he gave them more leeway. Ms. Cenicerros also has personal knowledge that
27 Alisha Krupinsky encouraged her subordinates to keep tabs on other officers and report
28

1 back to her; those who did so were given preferential treatment.

2 54. After former Chief Mike Daly announced his retirement, Zamudio made a
3 bid for the Chief of Probation position. The Marin County Board of Supervisors received
4 dozens of letters from female officers opposing Zamudio's bid for Chief of Probation.

5 55. Officer Yuliana Valenzuela has been with the Department since 2005 and
6 works under Individual Defendant Anthony Tony Raitano. She has heard Cole make
7 numerous inappropriate, race-based comments, and has heard Zamudio make
8 inappropriate comments as well. She has personal knowledge that Krupinsky used her
9 subordinates to feed her information about other officers, and rewarded them in
10 exchange. Krupinsky also disclosed confidential medical information about Officer
11 Valenzuela's medical condition. These allegations are confirmed in Officer Valenzuela's
12 sworn declaration. (Attachment 4.)

13 56. Since Cole's sexual assault on Officer Saldana in 2015, Officer Valenzuela
14 heard others in the office make comments like, "slap a butt and get promoted." She
15 heard this or similar comments about 10 times. She understood this to be a direct
16 reference to Cole being promoted after his sexual assault on Officer Saldana, both of
17 which were common knowledge in the Department. These allegations are also
18 confirmed by Officer Valenzuela's sworn declaration.

19 57. Maria Mendoza is another former probation officer and subordinate of
20 Cole who filed a PMR 21 in February 2021 alleging Cole touched her inappropriately.
21 She did not report the incident at the time because she was a probationary employee
22 and feared retaliation. But after Ms. Mendoza developed a medical condition that made
23 it more difficult for her to work, she requested accommodation from Cole. Instead of
24 offering her a leave of absence, however, Cole pushed her to work even harder, beyond
25 what was possible for her under the circumstances. She was fired by Cole and Krupinsky
26 without explanation in November 2020 without being given a meaningful opportunity
27 to improve her performance.

1 58. Heather Donoho is a Senior Deputy Probation Officer who was
2 interviewed in connection with her own complaint of harassment against a probation
3 officer named Jonathan Grant. Officer Donoho disclosed facts to the County's
4 investigator showing Individual Defendant Krupinsky used subordinates like Cole to
5 intimidate probation officers and threaten their prospects for promotion if they spoke
6 out against perceived misconduct within the department.

7 59. Separately, in or around October 2019, Cole asked Officer Donoho, "Do
8 you like the game cornhole (the game where bean bags are tossed through holes in a
9 game-board)?" Officer Donoho said she played it when she went camping. Cole then
10 showed her a picture on his phone where the beanbags were semen and the holes were
11 vaginas. Though she was utterly shocked, Donoho did not report this at the time because
12 she knew first-hand that the County had failed to protect Officer Saldana from
13 retaliation after the report of Cole's sexual assault, and feared retaliation herself.

14 60. Fidelia Contreras is another female employee in the probation department
15 whom Cole allegedly sexually harassed and assaulted in 2021. Specifically, he grabbed
16 her hips from behind and thrust his genitals into her buttocks, saying she needed to
17 divorce her husband.

18 61. Ms. Krupinsky was placed on administrative leave in early June 2022 and
19 announced her retirement on December 12, 2022. Officer Saldana is informed and
20 believes this resulted from the fact she was in a years-long *quid pro quo* sexual
21 relationship with, and exercised undue influence over, a subordinate male officer named
22 Ulises Ramirez, who was promoted to Senior Deputy Probation Officer (DPO) during his
23 relationship with Krupinsky. Officer Ramirez disclosed his *quid pro quo* relationship
24 with Krupinsky after he tried to end it, and she continued to try to exert undue influence
25 over him.

26 62. The County's Human Resources Department was essentially complicit for
27 years in the misconduct experienced by Officer Saldana and other women in the
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1 Probation Department. Angela Nicholson, who served as Interim HR director at the
2 time of Saldana's initial 2016 complaint and thereafter became the County's Assistant
3 County Administrator until 2021, and her successor as HR Director, Mary Hao, all knew
4 Officer Saldana was continuing to experience retaliation; and knew the County was not
5 following its own policies. Yet Human Resources, in addition to various management
6 employees within the Probation Department, has taken inadequate steps to remedy the
7 unlawful conduct. Plaintiff believes Defendant County has a pattern of practice of
8 failing to take immediate and appropriate corrective action to prevent harassment,
9 discrimination, and retaliation from occurring; and of failing to follow its own policies
10 and other applicable laws related to handling and investigating complaints of unlawful
11 conduct.

12 63. Isaac Kaijankoski, the former assistant to the HR Director, resigned his job
13 without giving notice at the end of January 2022. Next, HR Director Mary Hao gave
14 notice of her resignation the first week of March 2022. Angela Nicholson then gave
15 notice of her resignation in June 2022, as did Dominique Burton, who oversaw the
16 County's learning and organizational development division. Saldana is informed and
17 believes these retirements were related to the botched handling of the PMR complaints
18 and the revelations of other misconduct and dysfunction within the Probation
19 Department, including the unexpected retirements of Individual Defendants Alisha
20 Krupinsky and Mariano Zamudio.

21 64. As a proximate result of Defendants' unlawful employment practices,
22 Plaintiff has suffered the loss of salary, benefits, and additional amounts of money she
23 would have received if she had not been subjected to the unlawful conduct alleged
24 herein, in an amount according to proof.

25 65. As a further proximate result of Defendants' unlawful employment
26 practices, Plaintiff has suffered sickness, physical injury, mental anguish, outrage,
27 embarrassment, humiliation, aggravation, emotional distress, and has experienced
28

1 other stresses and injuries, in an amount according to proof.

2 66. Defendant County, through its managing agents, officers, and directors,
3 and namely Individual Defendants Mariano Zamudio, David Cole, Alisha Krupinsky,
4 and Anthony Raitano, (the “Individual Defendants”) acted with malice, oppression, or
5 fraud, in wanton and reckless disregard of Plaintiff’s rights, or that they knew of and
6 ratified said conduct, such that their conduct warrants the imposition of punitive
7 damages against the Individual Defendants in an amount sufficient to punish them and
8 deter other supervisory employees from engaging in similar misconduct.

9
10 **FIRST CAUSE OF ACTION**

11 **Failure to Prevent Harassment, Discrimination, And Retaliation**

12 **(Government Code section 12940(k))**

13 **(Against Defendant the County)**

14 67. Plaintiff realleges the preceding paragraphs as though fully pled in this
15 cause of action.

16 68. Government Code section 12940(k) provides that it is an unlawful
17 employment practice for an employer to fail to take all reasonable steps necessary to
18 prevent discrimination, retaliation, and harassment from occurring.

19 69. Plaintiff was subjected to discriminatory and retaliatory conduct by
20 Defendant County, through Individual Defendants David Cole, Anthony Raitano,
21 Mariano Zamudio, and Alisha Krupinsky, which has been continuous and ongoing since
22 2015, because of her sex/ gender; and for protesting Cole’s sexual harassment. Cole,
23 Raitano, Zamudio, and Krupinsky were supervisory employees at all relevant times.

24 70. Defendant County was on notice that Plaintiff was being discriminated
25 and retaliated against by Cole, Raitano, Zamudio, and Krupinsky because
26 of her sex/gender; for the 2015 sexual assault complaint against Cole, and her
27 participation in the investigation of that and subsequent complaints; but failed to take
28

1 immediate and corrective action, thus permitting the discrimination and retaliation to
2 continue uncorrected through 2022.

3 71. Defendant County repeatedly failed to take immediate and appropriate
4 corrective action to prevent the unlawful conduct directed towards Officer Saldana. This
5 is evinced by, *inter alia*, the fact Mariano Zamudio did not properly report or investigate
6 Officer Saldana's complaint to him in January 2016 that she was being harassed by Cole,
7 which the County first substantiated in July 2021 after performing a supplemental
8 investigation at Plaintiff's insistence. As a result, Officer Saldana was required to endure
9 a hostile work environment for the better part of a decade, causing her to experience
10 significant emotional distress, as well as physical sickness and illness.

11 72. Despite their own acts of discrimination and retaliation, neither
12 Krupinsky, Raitano, nor Zamudio was disciplined in response to these acts. And despite
13 the County's zero-tolerance policy for unlawful harassment, Cole was only suspended for
14 one day, after which he was promoted twice within 18 months of the County's findings
15 of "improper touching." This is not immediate and appropriate corrective action.

16 73. In doing the acts alleged herein, Defendant County violated Government
17 Code section 12940(k).

18 **SECOND CAUSE OF ACTION**

19 **Retaliation for Opposing Conduct Prohibited by the FEHA**

20 **(Gov. Code section 12940(h))**

21 **(Against all Defendants)**

22 74. Plaintiff realleges the preceding paragraphs as though fully pled in this
23 cause of action.

24 75. Government Code section 12940(h) makes it unlawful for any person to
25 retaliate against an employee for opposing conduct made unlawful by the FEHA,
26 including sexual harassment and failure to prevent harassment, discrimination, and
27 retaliation from occurring.
28

76. In doing the acts alleged herein, Defendants violated Government Code section 12940(h). As Plaintiff's supervisors, Individual Defendants Zamudio, Krupinsky, Cole, and Raitano may be held individually liable for retaliation under the Fair Employment and Housing Act, Government Code section 12940(h). (See *Winarto v. Toshiba Am. Elecs. Components, Inc.* (9th Cir. 2001), 274 F.3d 1276, 1288.) Plaintiff is also informed and believes that Individual Defendants Zamudio, Krupinsky, Cole, and Raitano acted in concert, aiding and abetting each other to retaliate against Officer Saldana for her protected activity and criticism of the County's handling and investigation of her complaints.

THIRD CAUSE OF ACTION

Retaliation in Violation of Title VII

(42 USC section 2000e-3 (a))

(Against Defendant County)

77. Plaintiff realleges the preceding paragraphs as though fully pled in this cause of action.

78. 42 USC section 2000e-3, subd. (a) makes it unlawful for any employer to retaliate against an employee because she has opposed conduct made unlawful by Title VII, including sexual harassment; or because she has made a charge, testified, assisted, or participated in any manner in a related investigation or proceeding.

79. In doing the acts alleged herein, Defendants violated 42 USC section 2000e-3, subd. (a).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. That judgment be entered in favor of Plaintiff;
2. That Plaintiff be awarded back pay, front pay, lost benefits, and

prejudgment interest at the maximum rate permitted by law;

3. That Plaintiff be awarded damages for pain, suffering, physical injury, sickness, shock, humiliation, and other forms of emotional distress in an amount no less than \$5,000,000;

4. That Plaintiff be awarded compensatory damages;

5. That Plaintiff be awarded punitive damages against Individual Defendants Cole, Zamudio, Raitano, and Krupinsky under applicable law, including but not limited to Government Code section 12965, subdivision (b) and Civil Code section 3294

6. Injunctive relief;

7. Declaratory relief;

8. Costs of suit incurred herein;

9. Reasonable attorneys' fees;

10. Trial by a jury of Plaintiff's peers; and

11. Any such other and further relief as the Court deems proper and just.

Dated: March 30, 2023

Meechan, Rosenthal & Karpilow, P.C.

/s/Benjamin Karpilow
Benjamin K. Karpilow
Attorneys for Plaintiff
Jennifer Saldana